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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,885	08/23/2001	Jin Lu	US010363	1370

24737 7590 04/23/2007

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

LONSBERRY, HUNTER B

ART UNIT

PAPER NUMBER

2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/935,885	LU, JIN	
	Examiner	Art Unit	
	Hunter B. Lonsberry	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22,23,28,30-32 and 37-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22,23,28,30-32 and 37-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 1/29/07 have been fully considered but they are not persuasive.

Applicant argues that there is no motivation to combine Schar and Furukawa in that Schar does not teach providing multiple channels and there is no need for Furukawa's incongruity preventing teachings because each reference addresses situations that are unrelated to one another and neither teaches the desirability of such a combined embodiment. (pages 10-11).

Der Schar discloses that the transmitter 110 may receive content from a number of sources, which is transmitted over a network (CATV network, video cameras, TV antenna etc, column 5, line 57-column 6, line 15) to a television receiver, VCR, PC etc (column 6, lines 16-29). Furukawa discloses an audiovisual adjustment system which adjusts a plurality of programs so that they have similar settings utilizing the MPEG2 standard (column 4, lines 27-65, column 7, lines 54-65), which are then output to a router (figure 3), thus providing the advantage that all the signals have common audio (gain settings), video (chrominance) characteristics (column 6, line 24-column 7, line 32) so that a user does not experience incongruities when changing the channel to one provided from a different provider (column 2, lines 8-27).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify van der Schaar to adjust the audio and video settings as taught by Furukawa for the advantages of ensuring that a user does not experiences incongruities when changing the channel to one provided from a different provider (column 2, lines 8-27).

The Examiner further notes that transmitter 110 is concerned with transmitting the program, while Furukawa is at some intermediate point on the network, which transmits to the user. As der Schar discloses devices, which are functionally capable of receiving data from more than one source (the various types of receivers), and Furukawa discloses multiple sources and provides a unique benefit of reducing incongruities, the combination is proper.

Applicant argues that there is no motivation to combine Carr with the combination of der Schaar, Furukawa and Guedalia as the motivation in that Carr's providing additional information about a program to a user and saving bandwidth through the use of IP multicasting is unrelated to the applicant's claimed invention (page 11).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does

not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The Examiner is puzzled as to where a requirement exists that an Examiner's motivation to combine must be for the same reasons as applicant's invention. It appears to the Examiner that doing so would result in an impermissible hindsight situation. In this case, the combination of der Schaar, Furukawa and Guedalia does not disclose surfing a plurality of signals, but does disclose the use of IP transport of video.

Carr discloses the use of IP Multicasting to transmit a plurality of MPEG 2 formatted channels with supplemental information over an IP network (column 3, lines 9-45, column 7, lines 24-60,), for the advantage of providing additional information about a program to a user and saving bandwidth through the use of IP Multicasting.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of der Schaar, Furukawa and Guedalia to utilize the supplemental content and IP Multicasting features as taught by Carr, for the advantage

of providing additional information about a program to a user and saving bandwidth through the use of IP Multicasting.

Thus the addition of Carr provides additional benefits, namely providing additional information about a program to a user, and bandwidth savings, and thus the combination of der Schaar, Furukawa and Guedalia with Carr teaches each and every element of the claims.

Applicant argues that Guedalia does not teach generating signals at a second quality level that is substantially poorer than the first quality image (pages 12-13).

The Examiner disagrees. While van der Schaar does disclose encoding a base and enhancement layer, van der Schaar is silent regarding whether or not the corresponding video information is substantially poorer than the first quality level, receiving and processing a plurality of current broadcast signals to enable channel surfing of the signals.

Guedalia discloses a scalable video delivery environment in which video are streamed to a user in compressed form (reduced quality) dependant upon a user's bandwidth, the user receives the optimum version of the video for playback that their bandwidth can accommodate (column 20, line 27-column 21, line 19, column 22, line 45-column 23, line 49).

Thus it is the combination of der Schaar, Furukawa, Guedalia and Carr, which are relied upon to teach the claims.

Applicant argues that the Office Action fails to identify where in Tracton there is a teaching of a browser that accesses each of a plurality of Internet addresses.(page 13).

Regarding Applicant's argument, QuickTime Showcase is relied upon to teach this feature. The body of the rejection clearly states that Tracton fails to teach this feature.

QuickTime Showcase discloses a webpage with a number of hyperlinks to TV channels, such as BBC world and WGBH each with an associated web server with a web address, which enables a user to watch a variety of programming from around the world by selecting different links.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 22-23, 28, 30-32, 37, 42-44, and 46-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,788,740 to van der Schaar in view of U.S. Patent 6,804,827 to Furukawa, U.S., Patent 6,536,043 to Guedalia and U.S. Patent 7,051,357 to Carr.

Regarding claims 22, 28, 31, 37, and 47-48, van der Schaar discloses a method of facilitating broadcast channel surfing comprising:

Receiving current broadcast signals from at least one broadcast channel (column 5, line 56-column 6, line 8, data received via TV antenna) the broadcast signals configured to enable viewing of video information at a first quality level (default quality level received prior to selection of a streaming rate, column 5, line 67-column 6, line 4)

Processing the broadcast signals into surfing signals (column 6, lines 5-14, 49-61, column 8, line 16-33, the video is then encoded into mpeg signals with a base and enhancement layer)

Broadcasting the surfing signals substantially concurrent in time with the corresponding broadcast signals that are being broadcast from at least one broadcast channel to enable viewing of the surfing signals at a remote device at a time of surfing that is not substantially different from a time of broadcasting (column 6, lines 7-29).

While van der Schaar does disclose encoding a base and enhancement layer, van der Schaar is silent regarding whether or not the corresponding video information is substantially poorer than the first quality level, receiving and processing a plurality of current broadcast signals to enable channel surfing of the signals.

Furukawa discloses an audiovisual adjustment system which adjusts a plurality of programs so that they have similar settings utilizing the MPEG2 standard (column 4, lines 27-65, column 7, lines 54-65), which are then output to a router (figure 3), thus providing the advantage that all the signals have common audio (gain settings), video

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(chrominance) characteristics (column 6, line 24-column 7, line 32) so that a user does not experiences incongruities when changing the channel to one provided from a different provider (column 2, lines 8-27).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify van der Schaar to adjust the audio and video settings as taught by Furukawa for the advantages of ensuring that a user does not experiences incongruities when changing the channel to one provided from a different provider (column 2, lines 8-27).

The combination of van der Schaar and Furukawa is silent regarding whether or not the corresponding video information is substantially poorer than the first quality level and channel surfing of the plurality of signals.

Guedalia discloses a scalable video delivery environment in which video are streamed to a user in compressed form (reduced quality) dependant upon a user's bandwidth, the user receives the optimum version of the video for playback that their bandwidth can accommodate (column 20, line 27-column 21, line 19, column 22, line 45-column 23, line 49).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of van der Schaar and Furukawa utilize the streaming functionality based upon bandwidth, as taught by Guedalia, for the advantage of providing the optimum video quality to a remote user that their bandwidth can accommodate.

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The combination of der Schaar, Furukawa and Guedalia does not disclose surfing a plurality of signals, but does disclose the use of IP transport of video.

Carr discloses the use of IP Multicasting to transmit a plurality of MPEG 2 formatted channels with supplemental information over an IP network (column 3, lines 9-45, column 7, lines 24-60,), for the advantage of providing additional information about a program to a user and saving bandwidth through the use of IP Multicasting.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of der Schaar, Furukawa and Guedalia to utilize the supplemental content and IP Multicasting features as taught by Carr, for the advantage of providing additional information about a program to a user and saving bandwidth through the use of IP Multicasting.

Regarding claims 23 and 32, Guedalia is relied upon to teach providing substantially continuous access to the surfing signals at one or more Internet addresses (column 28, line 4-44).

Regarding claims 30 and 50, Guedalia is relied upon to teach that the video may be set to be encoded at lower rates than 30fps (column 20, lines 53-56).

Regarding claims 28, 43-44 see claim 42.

Regarding claim 46, Guedalia is relied upon to teach that the surfing signals use substantially less bandwidth than the broadcast source (column 20, line 35-56).

4. Claims 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,788,740 to van der Schaar in view of U.S. Patent 6,804,827 to Furukawa, U.S. Patent 6,536,043 to Guedalia, and U.S. Patent 7,051,357 to Carr in further view of U.S. Patent 6,470,378 to Tracton.

Regarding claim 45 van der Schaar discloses streaming live broadcasts.

The combination of van der Schaar, Furukawa, Guedalia and Carr fails to disclose surfing signals, which are configured to facilitate reception via a portable device.

Traction discloses a scalable MPEG system in which a client device (pc, cell phone, laptop etc) transmits its bandwidth and processor capabilities, the appropriate version is then selected and transmitted via the Internet to the device (column 4, lines 14-62, column 6, line 44-column 7, line 34), thus providing a user a convenient way to access content wirelessly.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of van der Schaar, Furukawa, Guedalia and Carr to utilize the polling features and mobile phone features of Tracton for the advantage of distinguishing the most appropriate content version for a user's device and providing a convenient way for a user to access content.

5. Claims 29, 38 and 49, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,788,740 to van der Schaar in view of U.S. Patent 6,804,827 to Furukawa, U.S., Patent 6,536,043 to Guedalia, and U.S. Patent 7,051,357 to Carr in further view of U.S. Patent 6,986,158 to Terui.

Regarding claim 29, van der Schaar discloses streaming live broadcasts.

The combination of van der Schaar, Furukawa, Carr and Guedalia fails to disclose identifying key frames in the source signals and forming the surfing signals from the key frames.

Terui discloses an error monitoring system in which when a user has an intolerable amount of errors only the I frames are transmitted to the user (figures 18-20, column 11, line 64-column 13, line 21), thus ensuring a user can view a video stream properly.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of van der Schaar, Guedalia, Carr and Guedalia to utilize the error monitoring and forced intraframes coding features of Terui, for the advantage of ensuring a user can view a video stream properly.

6. Claims 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,470,378 to Tracton in view of

<http://web.archive.org/web/19990508141539/http://www.apple.com/quicktime/showcase/live/> (QuickTime Showcase).

Regarding claim'39, Tracton discloses a scalable MPEG system in which a client device (pc, cell phone, laptop etc) with a browser transmits its bandwidth and processor capabilities along with a request for a video stream via an Internet connection to a web server, the appropriate version is then selected and transmitted via the Internet to the device (column 4, lines 14-62, column 6, line 44-column 7, line 34).

Tracton fails to disclose a server with multiple Internet addresses each address corresponding to an associated broadcast channel.

QuickTime Showcase discloses a webpage with a number of hyperlinks to TV channels, such as BBC world and WGBH each with an associated web server with a web address, which enables a user to watch a variety of programming from around the world by selecting different links.

Therefore, it would have been obvious to one skilled in the art at the time to invention to modify Tracton to utilize a number of broadcast signals, a plurality of surfing signals which are accessed via a plurality of Internet address which facilitate selective reception of each signal, as taught by QuickTime Showcase, for the advantage of providing an easy way for a user to watch a variety of programming from around the world.

Regarding claim 40, Tracton discloses that there may be multiple versions of video scaled to meet client characteristics, an unscaled MPEG2 news broadcast may be re-encoded into a form as needed for a lower capability device (column 7, line 1-53).

Regarding claim 41, Tracton discloses that the images may be encoded at lower quality settings (column 4, line 36-49).

Claims 51-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,788,740 to van der Schaar in view of U.S. Patent 6,804,827 to Furukawa, U.S., Patent 6,536,043 to Guedalia and U.S. Patent 7,051,357 to Carr in further view of in view of

<http://web.archive.org/web/19990508141539/http://www.apple.com/quicktime/showcase/live/> (QuickTime Showcase).

Regarding claims 51-55, van der Schaar discloses streaming live broadcasts.

The combination of van der Schaar, Furukawa, Carr and Guedalia fails to disclose server with multiple Internet addresses each address corresponding to an associated broadcast channel and providing access to the surfing signals via the addresses.

QuickTime Showcase discloses a webpage with a number of hyperlinks to TV channels, such as BBC world and WGBH each with an associated web server with a web address, which enables a user to watch a variety of programming from around the world by selecting different links.

Therefore, it would have been obvious to one skilled in the art at the time to invention to modify the combination of van der Schaar, Furukawa , Carr and Guedalia to utilize a number of broadcast signals, a plurality of surfing signals which are accessed via a plurality of Internet address which facilitate selective reception of each signal, as taught by QuickTime Showcase, for the advantage of providing an easy way for a user to watch a variety of programming from around the world.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HBL

VH2
Michael B. Losberry
Patent Examiner
Art Unit: 2623